

CHAPTER 57-39.5 FARM MACHINERY GROSS RECEIPTS TAX

57-39.5-01. (Effective after September 30, 2005) Definitions. Words used in this chapter have the same meaning as provided in chapter 57-39.2. As used in this chapter:

1. "Attachment unit" means any part or combination of parts having an independent function, other than farm machinery repair parts, which when attached or affixed to farm machinery is used exclusively for agricultural purposes.
2. "Farm machinery" means all vehicular implements and attachment units, designed and sold for direct use in planting, cultivating, or harvesting farm products or used in connection with the production of agricultural produce or products, livestock, or poultry on farms, which are operated, drawn, or propelled by motor or animal power. "Farm machinery" does not include vehicular implements operated wholly by hand or a motor vehicle required to be registered under chapter 57-40.3. "Farm machinery" does not include machinery that may be used for other than agricultural purposes, including tires, farm machinery repair parts, tools, shop equipment, grain bins, feed bunks, fencing materials, and other farm supplies and equipment.

57-39.5-01.1. (Effective after September 30, 2005) Trade-in deduction. When tangible personal property is taken in trade or in a series of trades as a credit or partial payment of a retail sale taxable under this chapter, if the tangible personal property traded in will be subject to gross receipts taxes imposed by this chapter, sales taxes imposed by chapter 57-39.2, or motor vehicle excise taxes imposed by chapter 57-40.3, or if the tangible personal property traded in is used farm machinery or used irrigation equipment, the credit or trade-in value allowed by the retailer is not gross receipts.

57-39.5-02. (Effective after September 30, 2005) Imposition - Exemptions. There is imposed a tax of three percent upon the gross receipts of retailers from all sales at retail, including the leasing or renting, of farm machinery or irrigation equipment used exclusively for agricultural purposes. Gross receipts from sales at retail of farm machinery or irrigation equipment are exempted from the tax imposed by this chapter when the sale, lease, or rental is made to a purchaser or lessor who is entitled to a sales and use tax exemption under subsection 6 or 12 of section 57-39.2-04 on otherwise taxable sales at retail. There are specifically exempted from the tax imposed by this chapter the gross receipts from the sale or lease of used farm machinery, farm machinery repair parts, or used irrigation equipment used exclusively for agricultural purposes. For purposes of this section, "used" means:

1. Tax under this chapter or chapter 57-39.2 or 57-40.2 has been paid on a previous sale;
2. Originally purchased outside this state and previously owned by a farmer; or
3. Has been under lease or rental for three years or more.

57-39.5-03. (Effective after September 30, 2005) Replacement of insured machinery credit. When new farm machinery is purchased as a replacement for machinery on which the insurant has previously paid the gross receipts, sales, or use tax and which was stolen or totally destroyed, a credit or trade-in credit is allowed against one or more replacement purchases in a cumulative amount equal to the compensation received for the loss from the insurance company. The purchaser shall provide the seller with a notarized statement from the insurance company verifying that the original farm machinery was a total loss and indicating the amount of compensation. If the full amount of the credit under this section has not been used, the seller shall retain a copy of the notarized statement and, if the full amount of the credit has been used, the seller shall retain the original notarized statement to verify the amount of credit or trade-in credit allowed.

57-39.5-04. (Effective after September 30, 2005) Administration. The provisions of chapter 57-39.2 pertaining to administration of the retail sales tax, including provisions for refund, credits, or adoption of rules, not in compliance with this chapter or federal law, govern the administration of the gross receipts tax imposed in this chapter.

57-39.5-05. (Effective after September 30, 2005) Use tax and credit for taxes paid.

1. A person who receives farm machinery for storage, use, or consumption in this state is subject to tax on storage, use, or consumption of that farm machinery at the rate imposed under section 57-39.5-02.
2. A person subject to taxes under subsection 1 who has paid taxes to another state or political subdivision of a state as required by law on the purchase of the farm machinery is entitled to a credit against the tax due under subsection 1 equal to the lesser of the tax actually paid to the other state or political subdivision or the amount of tax imposed under subsection 1.